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PTO/SB/21 (02-04)

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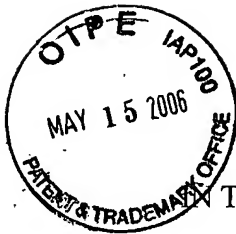
TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/691,770
	Filing Date	October 23, 2003
	First Named Inventor	Flohr et al.
	Art Unit	1626
	Examiner Name	Shameem, G.
	Attorney Docket Number	21031 US1
Total Number of Pages in This Submission		

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance communication to Group
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<input type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
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<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
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<input type="checkbox"/> Response to Missing Parts/Incomplete Application	Remarks	
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	-Request for Reconsideration of Patent Term Adjustment Determination (with \$200.00 fee)	
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm or Individual name	Kimberly J. Prior	
Signature		
Date	May 11, 2006	

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or printed name	Kimberly J. Prior		
Signature		Date	May 11, 2006

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PATENT APPLICATION

THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application

Inventors: Flohr et al.,

Group: 1626

Serial No. 10/691,770, filed October 23, 2003
(Ref. No. 21031 US1)

Examiner: Shameem. G.

Patent No. 7,019,001, issued March 28, 2006

For: **SUBSTITUTED BENZOTHAZOLE AMIDE DERIVATIVES**

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT
DETERMINATION**

Nutley, New Jersey 07110
May 11, 2006

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants hereby request reconsideration of the patent term adjustment indicated in the Issue Notification pursuant with 37 C.F.R. § 1.705(d). The deadline for filing this Request is May 28, 2006.

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DEPOSIT ACCOUNT NO. 08-2525 OUR ORDER NO. <u>10783</u>
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Patent No. 7,019,001
Issued: March 28, 2006
Serial No. 10/691,770
Filed: October 23, 2003

This request is accompanied by

- (1) the fee set forth in 37 C.F.R. § 1.18(e); and
- (2) a statement of the facts relating to the incorrect determination of PTA specifying:
 - (i) the correct patent term adjustment and the basis under 37 C.F.R. § 1.702 for the adjustment;
 - (ii) the relevant dates as specified in §§ 1.703(a)-(e) for which the patent is entitled to an adjustment as specified in § 1.703(f);
 - (iii) whether the patent is subject to a Terminal Disclaimer; and
 - (iv)(A) any circumstances during prosecution resulting in the patent that constituted a failure to engage in reasonable efforts to conclude processing or examination as set forth in 37 C.F.R. § 1.704; or
 - (iv)(B) that there were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in 37 C.F.R. § 1.704.

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FEE IN ACCORDANCE WITH 37 C.F.R. § 1.18(E)

Applicants hereby authorize the Director to charge Deposit Account No. 08-2525 in the amount of \$200.00 to cover the fee provided in 37 C.F.R. § 1.18(e). The Director is further authorized to charge any deficit or credit any overpayment to said deposit account.

STATEMENT OF FACTS

A "Determination of Patent Term Adjustment under 35 U.S.C. § 154(b)" was forwarded to Applicant with the Notice of Allowance. This first determination indicated that there was a patent term adjustment of 183 days, which at the time was correct. A second "Determination of Patent Term Adjustment under 35 U.S.C. § 154(b)" was forwarded to Applicant with the Issue Notification. This second determination indicated that there was a patent term adjustment of 63 days. Applicants respectfully submit that this second determination is incorrect.

The correct PTA to which the patent is entitled in accordance with 37 C.F.R. § 1.702 is 183 days. The 183 days is calculated as follows: 183 days under 37 C.F.R. § 1.702(a)(1) for the PTO's failure to mail a notification under 35 U.S.C. § 132 or a notice of allowance under 35 U.S.C. § 151 within 14 months of filing of the application.

The relevant dates specified in 37 C.F.R. §§ 1.703(a)-(e) for which the patent is entitled to an adjustment under 37 C.F.R. § 1.703(f) are as follows. These dates relate to the period between filing of the application and issuance of a first Office Action. The application was filed October 23, 2003. The date fourteen months after filing was December 23, 2004. A

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Restriction Requirement was mailed June 24, 2005. Thus, in accordance with 37 C.F.R. § 1.703(a)(1), the patent is entitled to a PTA of 183 days for the period between December 23, 2004, and June 24, 2005.

This patent is not subject to a Terminal Disclaimer.

There are no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination under 37 C.F.R. § 1.704. However, the PTO has erroneously deducted 120 days under 37 C.F.R. § 1.704. The following is applicants' understanding of why the PTO has deducted 120 days from the patent's PTA and why these 120 days should not have been deducted.

A paper was filed with the PTO on October 4, 2005, which was received by the PTO on October 6, 2005. PAIR has titled this document as a "Miscellaneous Incoming Letter," and it appears that the PTO has subtracted a period of four months. The basis for this subtraction appears to be 37 C.F.R. § 1.704(10)(ii). As discussed below, this period of time should not be deducted from the patent's PTA.

The Notice of Allowability, which issued September 19, 2005, was accompanied by an Examiner's Amendment and an Interview Summary. The Interview Summary states that "APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW." The "Statement of the Substance of the Interview" is required under 37 C.F.R. § 1.133(b). In accordance with this requirement, Applicants filed a "Statement of the Substance of a Telephonic Interview under

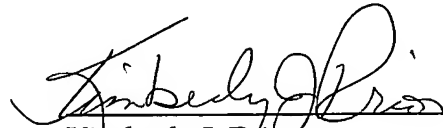
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37 C.F.R. § 1.133(b)" on October 4, 2005. It is this "Statement of the Substance of the Interview" that is listed as the "Miscellaneous Incoming Letter" in PAIR. Because the Substance of the Interview is required by PTO rules and because it was filed within the specified one-month time limit provided in the Interview Summary issued by the PTO, Applicants should not be penalized for its submission. Therefore, there should be no reduction in PTA under 37 C.F.R. § 1.704, and the total PTA under 37 C.F.R. § 1.702 should be 183 days.

Applicants respectfully submit that it is improper to consider the filing of a required response as failing to engage in reasonable efforts to conclude processing or examination of the application and respectfully request reconsideration and grant of a PTA of 183 days.

If the PTO believes a telephone interview would be helpful in resolving this or any other issues, a telephone call to the undersigned attorney is respectfully solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kimberly J. Prior", written over a horizontal line.

Kimberly J. Prior
Attorney for Applicant(s)
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